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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,828	01/11/2001	David M. Szum	P 273739 D807-CIP-III-CON	1573

909 7590 08/09/2002

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EXAMINER
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LEE, JOHN D

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 08/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/757,828

Applicant(s)

SZUM ET AL.

Examiner

John D. Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 73-96 and 98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 73-96 and 98 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

This Office action is responsive to applicant's amendment filed on June 13, 2002. Claim 97 has been canceled by the amendment, leaving claims 73-96 and 98 pending in the application. The previously applied 35 U.S.C. § 112, second paragraph, rejection has been obviated by the June 13, 2002, amendment, and the previously applied provisional double patenting rejection has been obviated by the cancellation of claim 97. Since claim 94 was made dependent upon claim 73 by the June 13, 2002, amendment, the previously applied 35 U.S.C. § 102(b) rejection has likewise been obviated. Further search by the Examiner has uncovered no prior art any more relevant to the claims than that already made of record herein. Therefore, for the reasons stated on page 4 of the previous Office action, claims 73-96 and 98 herein are allowed.

The Information Disclosure Statement filed on June 13, 2002, has been considered by the Examiner (note the attached initialed copy of page 1 of the IDS). Notice that two of the listed copending applications (10/162,235 and 10/119,296) are still undergoing preexamination processing and are not available for inspection. With respect to these two unavailable applications, the Examiner is particularly taken by the statement (in the IDS) that the "applications are, as filed, identical to the present application as filed". It would thus appear that there may be potential issues of double patenting that the Examiner cannot at present ascertain. It would also thus appear that these two unavailable applications may need to be included in the requested interference with U.S. Patent 6,014,488. Although the claims of the present application are now allowable and in condition to proceed with an interference, such an interference cannot be instituted until the above-identified issues (regarding the two unavailable

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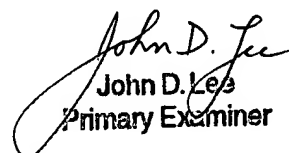
applications) are satisfactorily resolved. Applicant can help expedite this process by submitting, in response to this Office action, copies of the claims filed in these two unavailable applications, and by affirmatively stating whether or not these two unavailable applications should be included in the interference. Applicant is also welcomed to submit (as discussed informally by telephone with applicant's representative) a proposed outline, for purposes of interference, as to how claims of the application(s) correspond or do not correspond to the subject matter of the proposed interference.

This application is in condition for allowance except for the following formal matters: the issues discussed in the immediately preceding paragraph.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO (2) MONTHS** from the mailing date of this letter.

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (703) 308-4886. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.

  
John D. Lee  
Primary Examiner